IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

CONTEMPT PETITION NO.91 OF 2005

IN

NOTICE OF MOTION NO.1586 OF 2004

IN

SUIT NO.1577 OF 2004

...

M/s.Su-Raj Diamonds and Jewellery Ltd. ...Petitioner

v/s.

M/s.Su-Raj Inter Gold Pvt.Ltd. ...Respondents

and

Mr.Bharat Kanhaiyalal Jain and ors. ...Respondents-Contemnors

...

Mr.V.R.Dhond i/b DSK Legal for the Petitioner.

Mr.Rajiv Narula i/b Jhagiani Narula & Associates for the Respondents.

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CORAM: D.K.DESHMUKH, J.

DATED: 18TH JUNE, 2007

P.C.:

1. By this contempt petition the Petitioner alleges that the Respondents have willfully breached the order dated 7th April, 2005 passed by this court in Notice of Motion No.1586 of 2004. Perusal of the order dated 7th April, 2005 shows that the Respondents were doing their business under the name M/s.Su-Raj Inter Gold Pvt. Ltd.

2. A grievance was made by the present Petition against that. When the Notice of Motion came before the court, the Respondents expressed their willingness to change their name from Su-Raj to Suraj. They wanted six months time for the change. The court granted them six months time with a condition that if they do not change the name within six months, interim order in terms of prayer (a) shall stand granted.

2. The case of the present Petitioner is that within six months the Respondents have not changed their name and therefore interim injunction in terms of prayer (a) of the motion stood granted and the Respondents have committed wilful breach of that order. The Petitioner has narrated three instances of the Respondents wilfully committing breach of the interim order made by this court. (i) According to the Petitioner, the period of six months came to an end on 7th October, 2005, but in the Exhibition held in Behrain in November, 2005 on the Stall of the Respondents their name continued to be shown as Su-raj Intergold Pvt. Ltd. (ii) According to the Petitioner when the Petitioner accessed web-site of the Respondents in November, 2005 it is found that on the web-site the name of the Respondents continued to be the same namely Su-rajintergold.com. (iii) It is further alleged that even in December, 2005 the domain name of the Respondents on the internet continued to be Su-rajintergold.com.

3. The Respondents have explained that they changed the name of their company pursuant to the statement made by them before the court in the month of July, 2005 itself. They also stated that the amount was

deposited by them with Behrain Exhibitor in the changed name. But the Exhibitor put the same old name on their stall. When their representative noticed it, he requested the Exhibitor to change the name, but he informed that at this late state the name cannot be changed.

. So far as website is concerned, it is submitted by the Respondents that due to oversight the domain name and the name on the web-site remained to be changed. When it was noticed in December, both the domain name and name on the web-site were changed immediately.

4. I have heard the learned Counsel for both sides. I find that the Respondents have changed the name of their company from Su-raj Inter Gold Pvt.Ltd. to Suraj Jewels Pvt.Ltd. in July, 2005. But it does appear that despite the change, in the Exhibition held in Behrain in the month of November, 2005 on their stall their old name continued. Their representative approached the organiser for the change, but the organiser did not agree to make the change because the request was made late. But no correspondence in this regard is produced by the Respondents.

. So far as name on the web-site and domain name are concerned, it appears that they made necessary changes in this regard in December, 2005.

5. Taking overall view of the matter, and specially in view of the unconditional apology tendered by the Respondents, in my opinion, it will not be appropriate to proceed further in this contempt petition. After having changed the name of the company in July, 2005, admittedly it cannot be said that the Respondents will continue to use the old name because it will not be to their advantage. Contempt petition is, therefore, disposed of. Respondents, however, are directed to pay costs of this petition to the Petitioner. The cost is quantified at Rs.10,000/-.

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